

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

Patricia Schneider,

and

Norman Acker

and

Sarita Cain

and

Roy Hunt

and

Theresa Hunt

and

Kermit Hargis

and

Bill Ethridge

and

Rod Parks

and

Rick Shuler

Plaintiffs,

vs.

City of Bolivar, Missouri

Defendant.

Case No. 6:13-cv-3427

JURY TRIAL DEMANDED

COMPLAINT

COME NOW, Plaintiffs Patricia Schneider, Norman Acker, Sarita Cain, Roy Hunt, Theresa Hunt, Kermit Hargis, Bill Ethridge, Rod Parks, and Rick Shuler (collectively the "Plaintiffs") by and through their undersigned counsel, and for their cause of action against Defendant, The City of Bolivar, Missouri (hereinafter "Bolivar" or "Defendant") state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as this case arises out of the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 ("ADEA") and Plaintiffs have received Notice of Right to Sue Letters from the United States Equal Opportunity Employment Commission ("EEOC"). True and correct copies of Plaintiffs' Notice of Right to Sue Letters are attached hereto as Exhibit A.

2. Venue is proper within this District because the unlawful practices complained of herein occurred within the counties of the State of Missouri comprising the Western District of Missouri.

PARTIES

3. Plaintiff Patricia Schneider is an individual who resided at all relevant times in Polk County, Missouri.

4. Plaintiff Norman Acker is an individual who resided at all relevant times in Polk County, Missouri.

5. Plaintiff Sarita Cain is an individual who resided at all relevant times in Cedar County, Missouri.

6. Plaintiff Roy Hunt is an individual who resided at all relevant times in Polk County, Missouri.

7. Plaintiff Theresa Hunt is an individual who resided at all relevant times in Hickory

County, Missouri.

8. Plaintiff Kermit Hargis is an individual who resided at all relevant times in Polk County, Missouri.

9. Plaintiff Bill Ethridge is an individual who resided at all relevant times in Polk County, Missouri.

10. Plaintiff Rod Parks is an individual who resided at all relevant times in Polk County, Missouri.

11. Plaintiff Rick Shuler is an individual who resided at all relevant times in Polk County, Missouri.

12. Defendant, City of Bolivar, is a Missouri city located in Polk County, Missouri.

STATEMENT OF FACTS

13. On or about April 13, 2012 the City of Bolivar terminated thirteen employees by firing them or coercing them to retire or resign.

14. Of the 13 employees who were terminated on or about April 13, 2012, ten, including Plaintiffs, were over the age of 40.

15. With the exception of Kermit Hargis and Bill Ethridge, on April 13, 2012, Defendant gave each of the Plaintiffs a departure packet with a letter titled "To: Resigning, Retiring and Terminating Employees."

16. Beginning in December, 2011, Defendant held a number of staff meetings, city council meetings, and other meetings among and between city employees, administrators, and/or officials, and during these meetings, Bolivar Mayor, John Best, and Bolivar City Clerk, Kimberly Strader, made multiple statements asserting that Defendant could not continue to afford to pay employees age 55 and older and that these employees

needed to go because they could be replaced by younger people who could do more work and be paid less.

17. During these meetings, Defendant summarily rejected other options to address its budgetary concerns including letting older workers agree to a voluntary reduction of benefits.

18. Between December 1, 2011, and April 13, 2012, Mayor Best and Ms. Strader made multiple attempts to encourage older employees to retire and resign, including several occasions in which Ms. Strader pressured Plaintiff Patricia Schneider to encourage Plaintiff Roy Hunt to retire or resign and pressured Plaintiff Theresa Hunt to encourage Plaintiff Roy Hunt and Plaintiff Patricia Schneider to retire or resign, stating that if these and other employees over 55 would retire or resign, younger and cheaper workers could be hired.

19. Upon information and belief, after Plaintiffs' termination, Plaintiffs' jobs and/or job functions were filled and/or assumed by workers younger than 40 years of age.

20. Plaintiff Patricia Schneider was employed by Defendant as a Cemetery Sexton from February 25, 1987 to April 13, 2012 and was 60 years old when Defendant terminated her employment.

21. Plaintiff Norman Acker was employed by Defendant as a Sewer Laborer from August 16, 1994 to April 12, 2012 and was 57 years old when Defendant terminated his employment.

22. Plaintiff Sarita Cain was employed by Defendant as a Community Development Director from July 24, 1995 to April 13, 2012, and was 58 years old when Defendant terminated her employment.

23. Plaintiff Roy Hunt was employed by Defendant as a General Laborer from February 25, 1995 to April 13, 2012 and was 65 years old when Defendant terminated his

employment.

24. Plaintiff Theresa Hunt was employed by Defendant as an Administrative Assistant from May 18, 1999 to April 13, 2012, and was 56 years old when Defendant terminated her employment.

25. Plaintiff Kermit Hargis was employed by Defendant as an Emergency Management Director from April 13, 1979, to April 1, 2012 and was 57 years old when Defendant ended his employment by successfully coercing him to resign.

26. Plaintiff Bill Ethridge was employed by Defendant as a Sewer Supervisor from September 13, 1976 to May 8, 2012, and was 57 years old when Defendant ended his employment by successfully coercing him to resign.

27. Plaintiff Rick Shuler was employed by Defendant as a Public Works Director from November, 1992 to April 13, 2012 and was 55 years old when Defendant terminated his employment.

28. Plaintiff Rod Parks was employed by Defendant as a Support Service Lieutenant from June 26, 1995 to April 13, 2012 and was 44 years old when Defendant terminated his employment.

29. Between May 21, 2012 and June 14, 2012, Plaintiffs filed Age Discrimination charges with the EEOC.

30. On or about August 16, 2013, Plaintiffs received their Notice of Right to Sue Letters from the EEOC.

**COUNT 1:
DISCRIMINATION UNDER THE AGE DISCRIMINATION IN EMPLOYMENT
ACT**

31. Plaintiffs re-allege and incorporate Paragraphs 1-30 of their Complaint as if fully set forth herein.

32. At all times relevant herein, Plaintiffs were employees and Defendant was an employer within the meaning of § 630 of the ADEA.

33. Plaintiffs' ages were a deciding factor in Defendant's decision to terminate Plaintiffs' employment as described above.

34. Defendant's decision to terminate Plaintiffs' employment, through direct termination or coerced resignations or retirements, because Plaintiffs were over 40 years of age, was a violation of § 630(a) of the ADEA.

35. As a proximate result of Defendant's unlawful actions, Plaintiffs suffered damages exceeding \$75,000.00 including, but not limited to, loss of income and benefits.

36. Defendant's actions were wilful and showed a reckless disregard for the rights of Plaintiffs.

WHEREFORE, Plaintiffs request judgment against Defendant for: reinstatement, back pay and front pay with pre-judgment and post-judgment interest, compensatory damages, punitive, exemplary, and liquidated damages, attorneys' fees, costs, and expenses, and any other relief available under the ADEA; and all other relief deemed just and equitable.

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